

Serial No.:10/813,576
Docket No.: 00390060AA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Babson et al.

Confirmation No.: 4328

Serial No. 10/813,576

Group Art Unit: 1723

Filed: 03/31/2004

Examiner: Sorkin, David L

For: VESSEL AGITATOR ASSEMBLY

Box Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313 - 1450

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TOPICS FOR DISCUSSION

Sir:

Applicants respectfully request a telephone interview with the Examiner for purposes of clarifying issues regarding the Office Action mailed May 31, 2006, and expedite examination of this application. A draft listing of the claims, showing Applicants' proposed claim amendments, is attached for to page 5.

1. Claims 25-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 802,254 ("Baker") and, in the alternative, as being obvious over Baker under 35 U.S.C. § 103.
2. Applicants propose the attached amendment to base claim 25, and respectfully submit that Baker cannot anticipate, or establish obviousness of the claim as amended.
3. Applicants have amended claim 25 to recite the following:

said vessel conveyor is constructed and arranged to move said at least one vessel holder such that said vessel makes a selectable number of contacts with at least one of said plurality of contact locations of said vessel contact agitator (emphasis added)

Claim 25, currently amended, at lines 13-17.

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4. Applicants' specification and drawings disclose multiple embodiments and structures supporting the above-quoted claim 25 language, including:
 - a. A structure wherein the conveyor transports holders and vessels in one direction, *a plurality of times* around a closed loop path to *repeatedly* pass over each of the projections and troughs. See Figure 5, depicting the direction of conveyance as "C." See also, specification at page 5, lines 19-27;
 - b. A structure wherein the conveyor transports the holders, and vessels, in a back-and-forth manner, *a plurality of times* along a closed loop path so as to repeatedly pass over the projections and troughs. See specification at page 6, lines 3-7; and
 - c. The projections, troughs, holders and conveyor constructed and arranged such that the conveyor transports the holders and vessels, back-and-forth along a pathway that may be entirely substantially linear, *a plurality of times, to repeatedly* pass over the troughs and projections, and thereby agitate the vessels. See specification at page 4, lines 26-29.
5. Baker cannot be relied upon as a reference teaching, disclosing, or suggesting Applicants' proposed claim 25 language because Baker's apparatus conveys cans, once, and only once, through a heated tank to cook the contents of the cans. Stated with greater specificity, Baker's apparatus simply drops cans, by gravity, onto a first can-feeder G¹, which transfers the cans to a conveyor D, which conveys the cans over projections E², through a tank A, to a second can-feeder G² which, in turn, discharges the cans from the apparatus.
6. Baker's apparatus has no structure "to move said at least one vessel holder such that said vessel makes a selectable number of contacts with

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at least one of said plurality of contact locations of said vessel contact agitator. Baker's apparatus conveys cans, once, left-to-right.

7. Baker's teaching of conveying cans once, and only once, is not within the broadest reasonable meaning of the claim 25 limitation of the conveyor being constructed and arranged such that the vessel "makes a selectable number of contacts" with a contact point of the projections and troughs.
8. Baker therefore does not, and cannot, disclose anything within the broadest reasonable meaning of Applicants' claim 25 conveyor. Baker therefore cannot anticipate claim 25, or any of its dependent claims 26-29.
9. With respect to the rejection of claims 25-29 as obvious over Baker within the meaning of 35 U.S.C. § 103, Applicants' respectfully submit that Baker does not have the teaching, disclosure or other suggestion required to lead one of ordinary skill in the art to carry out the complete re-arrangement and redesign of Baker's disclosed apparatus necessary to achieve Applicants' claim 25.
 - a. Baker's apparatus has conveyor chains D, with no holders other than the force of gravity that keeps the cans on the chains, which convey cans, once, left-to-right.
 - b. For Baker's apparatus to convey cans to repeatedly contact the projections E², one of two fundamental changes would have to be made: (i) the conveyor chains D would have to be reversible, so that the cans could be moved back and forth to repeatedly contact the projections E², or (ii) holders would have to be added to the conveyor chains D carry cans in a closed-loop manner, left-to-right on top of the chains D, and then right-to-left under the chains D.
 - c. The prior art of record lacks any suggestion for either of these required fundamental changes, both changes are unworkable, both changes would render Baker's apparatus unacceptable for its

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intended purpose, and both changes would change the principle of operation of Baker's apparatus.

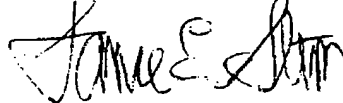
- d. If Baker's conveyor D were reversed then (i) cans returning right-to-left would collide with incoming cans dropping from the first can-feeder G¹; (ii) Baker's apparatus would be unacceptable for its intended purpose, *i.e.*, assembly-line type cooking cans; and (iii) it would materially change Baker's principle of operation, *i.e.*, dropping cans onto conveyor chains that transfer the cans once, over bumps, and only once, through a heated tank.
- e. If structure were added to the conveyor chain D to "hold" cans on its underside for the right-to-left return, and then (i) cans returning right-to-left would collide with incoming cans dropping from the first can-feeder G¹; (ii) Baker's apparatus would be unacceptable for its intended purpose, *i.e.*, assembly-line type cooking cans; and (iii) it would materially change Baker's principle of operation, *i.e.*, dropping cans onto conveyor chains that transfer the cans once, over bumps, and only once, through a heated tank.
- f. Baker therefore fails to establish *prima facie* obviousness of Applicant's claim 25, either viewed alone or in combination with any other items of cited prior art.

- 10. Dependent claims 26-30 are combination claims having all of their respectively recited elements in combination with all elements of base claim 25. These claims are therefore patentable over Baker for at least the reasons that base claim 25 is patentable.

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11. For the foregoing reasons, Applicants respectfully request that the rejections of claims 25-30 over Baker be reconsidered and withdrawn.

Respectfully submitted,



Laurence E. Stein
Reg. No. 35,371

Whitham, Curtis, Christofferson & Cook, P.C.
11491 Sunset Hills Road, Suite 340
Reston, VA 20190
703-787-9400
703-787-7557 (fax)

See Attached Draft Listing of Claims 25-30

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DRAFT Listing of claims:

The following is a complete DRAFT listing of all claims in the application, with an indication of the status of each:
1-24 (Canceled).

1 25. (DRAFT Amended) A vessel agitator, comprising:
2 a plurality of vessel holders, each of said plurality of vessel
3 holders constructed and arranged for removably holding a vessel;
4 a vessel conveyor constructed and arranged to move that
5 ~~moves~~ said plurality of vessel holders along a path having at least one
6 substantially linear section; and
7 a vessel contact agitator constructed and arranged such that
8 when a vessel is held by at least one of said plurality of vessel holders,
9 and is conveyed by said vessel conveyor along said path, said vessel
10 contact agitator contacts said vessel at a plurality of contact locations
11 along said path in a manner that displaces said vessel at each contact
12 location in a direction perpendicular to the direction of the path at that
13 contact location, wherein
14 said vessel conveyor is constructed and arranged to move said
15 at least one vessel holder such that said vessel makes a selectable
16 number of contacts with at least one of said plurality of contact
17 locations of said vessel contact agitator.

1 26. (DRAFT Amended) The vessel agitator of claim 25 wherein the
2 vessel contact agitator includes a plurality of at least three projections,
3 each located at a corresponding one of said contact locations, and a
4 includes a plurality of at least three troughs, each located at a
5 corresponding one of said contact locations, said projections and
6 troughs being constructed and arranged such that each of said

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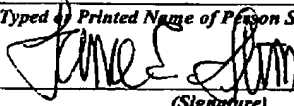
7 projections displaces said vessel in a first direction perpendicular to the
8 path at the projection's location of projection, and such that each of
9 said troughs displaces said vessel in a direction perpendicular to the
10 path at the trough's location, and substantially opposite to the direction
11 that projections adjacent to the trough displace said vessel.

1 27. (Previously Presented). The vessel agitator of claim 26 wherein the
2 spacing differs between different adjacent ones of said projection
3 locations.

1 28. (Previously Presented) The vessel agitator of claim 26 wherein the
2 spacing differs between different adjacent ones of said trough
3 locations.

1 29. (Previously Presented) The vessel agitator of claim 26 wherein the
2 spacing is the same between different adjacent ones of said projection
3 locations, such that the vessel is agitated in a periodic manner while
4 being conveyed.

1 30. (Previously Presented) The vessel agitator of claim 25, wherein
2 said vessel conveyor comprises a first rotatable wheel, a second
3 rotatable wheel, and an endless belt engaged with said first rotatable
4 wheel and second rotatable wheel, wherein said vessel holders are
5 attached to said endless belt.

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) Applicant(s): Babson et al.			Docket No. 00390060AA
Application No. 10/813,576	Filing Date 03/31/2004	Examiner D. Sorkin	Group Art Unit 1723
Invention: VESSEL AGITATOR ASSEMBLY			
RECEIVED CENTRAL FAX CENTER JUL 17 2006			
I hereby certify that this <u>Applicant Initiated Interview Request Form with Attachment</u> (Identify type of correspondence) is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>571-273-8300</u>) on <u>July 17, 2006</u> (Date)			
<u>Laurence E. Stein</u> (Typed or Printed Name of Person Signing Certificate)  (Signature)			
Note: Each paper must have its own certificate of mailing.			

P18/REV02

PTOL-413A (09-04)
Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/813,576 First Named Applicant: Arthur Babson
Examiner: Sorkin, David L Art Unit: 1723 Status of Application: Non-final

Tentative Participants:

(1) Laurence Stein (2) _____
(3) _____ (4) _____

Proposed Date of Interview: 7/20/2006 Proposed Time: 11:00 (AM/PM)

Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☐ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej.</u>	<u>Claims 25-30</u>	<u>Art Baker</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) <input checked="" type="checkbox"/> Continuation Sheet Attached	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Brief Description of Arguments to be Presented: See attached

An interview was conducted on the above-identified application on _____.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Laurence E Stein
Applicant/Applicant's Representative Signature

Examiner/SPE Signature

Laurence E Stein
Typed/Printed Name of Applicant or Representative

35,371

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.